

**REMARKS**

Claims 11-42 were previously pending in the application. Claims 40 and 42 have been withdrawn as allegedly being directed to a non-elected species. Claims 15, 24-26, 28-33, and 35-37 are amended. Claims 11-14, 16-23, 27, 34, and 38-42 remain unchanged. Claims 11, 24, 30, and 37 are independent.

**Allowable Subject Matter**

Applicants gratefully acknowledge the Office Action's indication that claims 30 and 37 would be allowable if rewritten in independent form. This Amendment rewrites claims 30 and 37 in independent form. Thus, claims 30 and 37 now should be allowed.

Applicants note that the features of claim 35 being incorporated into claim 30 have been amended to correct an informality by properly referring to the "second" plate-shaped distributor.

**Elections of Species Requirement**

The Office Action asserts that claims 40 and 42 are directed to an invention that is independent or distinct from the invention originally claimed because the limitation of multiple planes of parallel spray channels allegedly is a distinct species from the original as is placement of the spray channels in all of the bottom, top, and sides of the container. The Office Action states that, since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 40 and 42 have withdrawn from consideration as allegedly being directed to a non-elected invention.

Applicants respectfully submit that the Election/Restriction Requirement should be withdrawn because of a lack of a serious burden. Applicants respectfully submit that all of the claims in the present application are sufficiently related that searching and examining of all claims does not present a serious burden to the Examiner.

Hence, Applicants respectfully submit that the election is unnecessary and request withdrawal of this Election/Restriction Requirement.

Alternatively, Applicants respectfully request rejoinder of claims 40 and 42 upon allowance of independent claim 24.

**The Objection to the Specification**

The disclosure is objected to because of informalities. Particularly, the specification is objected to as allegedly failing to provide proper antecedent basis for the claimed subject matter of the selection of one of a movement and a to-and-fro motion in claim 12. Therefore, the Office Action suggests that this limitation be incorporated into the specification.

Applicants respectfully traverse this objection.

The Amendment filed on January 19, 2010, and entered by the Request for Continued Examination filed on January 19, 2010, amended the specification at page 4, lines 15-25 (paragraph [016]) to include the features of claim 12 in accordance with the Examiner's suggestion.

Therefore, Applicants respectfully submit that these features already have been added to the specification and this objection is moot.

Applicants respectfully request withdrawal of this objection.

**The Rejections under 35 U.S.C. § 112, second paragraph**

The Office Action rejects claims 11, 13, 15, and 20 are rejected under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants note that claim 13 is not listed in the rejection, but is included in the body of the rejection. Therefore, Applicants have treated the rejection as including claim 13.

Applicants respectfully traverse these rejections.

Applicants address each of these claims in the order in which they appear in the body of the rejection.

Claim 11:

The Office Action alleges that the phrase “and having two open ends via which rinsing liquid can be supplied in a pressurized manner” is not understood. In the Response to Arguments, the Office Action asserts that page 7, lines 27-32, does not clarify the phrase "pressurized manner" as recited in claim 11, and that to say a "pressurized rinsing liquid" allegedly is as indefinite as saying a "pressurized manner".

Applicants respectfully traverse this rejection.

Applicants submit that, when considered as a whole and in the context of the claim and the specification, one of ordinary skill in the art certainly would know and understand the meaning of “the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurised manner. “ Emphasis added.

M.P.E.P. § 2173.02 sets out the standard for complying with 35 U.S.C. § 112, second paragraph:

The essential inquiry pertaining to the requirement under 35 U.S.C. § 112, second paragraph, is 'whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of: (A) the content of the particular application disclosure; (B) the teachings of the prior art; and (C) the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.'

The specification very clearly describes an exemplary aspect in which the spray channels 3 each have two open ends wherein the open ends of the spray channels 3 on one side open into a first distributor 5 and the open ends of the spray channels 3 on the opposite end open into a second distributor. A pressurized rinsing liquid is supplied to the spray channels 3 (i.e., supplied in a pressurized manner). See, e.g., page 3, lines 11-28; page 4, lines 6-32; page 5, lines 10-18; page 7, lines 21-32, page 8, lines 1-4.

The term “pressurized” is defined as “to confine the contents of under a pressure greater than that of the outside atmosphere ... 2 : to apply pressure to” by Merriam-

Webster Online Dictionary, 2010, Merriam-Webster Online. 25 June 2010

<http://www.merriam-webster.com/dictionary/pressurize>.

Applicants submit that one of ordinary skill in the art at the time of the invention certainly would understand that a pressurized rinsing liquid or supplying a rinsing liquid in a pressurized manner means that the rinsing liquid is supplied under a pressure greater than that of the outside atmosphere. See, e.g., page 4, lines 6-13. Indeed, one of ordinary skill in the art, and particularly one of ordinary skill in the field of dishwashers, certainly would know and understand that pressurized rinsing liquid (i.e., rinsing liquid supplied under pressure) can be supplied to the spray channels such that the rinsing liquid is sprayed from the openings in the spray channels. If the rinsing liquid is not supplied under pressure, then the rinsing liquid clearly would not spray from the spray channels.

Claim 11 sets out and circumscribes the particular subject matter with a reasonable degree of clarity and particularity such that one of ordinary skill in the art reasonably would be apprised of the scope of the invention in light of the specification, the teachings of the prior art, and the claim interpretation that would be given by one possessing the ordinary level of skill in the field of dishwashers at the time the invention was made. Thus, claim 11 is clear and definite.

Applicants respectfully note that the Office Action repeats the previous ground of rejection, but does not answer the substance of Applicants traversal positions.

M.P.E.P. § 707.07(f) states that, where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

If the Office repeats the previous ground of rejection, then Applicants respectfully request that the next official action answer the substance of Applicants traversal positions.

Claim 20:

The Office Action asserts that the phrase “is one of a plurality of spray channels that are aligned parallel to one another at least on the bottom of the rinsing container” is

not understood. Also, in the Response to Arguments, the Office Action asserts, regarding claim 20, the Applicant allegedly has referred to a verbatim quotation of the claim in the specification to argue that the claim is not indefinite. Applicants respectfully submit that this simply is not the case, and therefore, traverse this rejection.

Considered in its entirety, claim 20 clearly recites that the at least one spray channel is one of a plurality of spray channels that are aligned parallel to one another at least on the bottom of the rinsing container. That is, the claimed spray channel is one of a plurality of spray channels. The plurality of spray channels are aligned parallel to one another at least on the bottom of the rinsing container.

The specification very clearly describes these features and the language of the claim corresponds to the description in the specification. See, e.g., page 6, lines 8-31; page 7, lines 1-2 and 9-10.

Thus, Applicants respectfully submit that one of ordinary skill in the art would be reasonably apprised of the scope of the invention, and claim 20 is clear and definite.

Applicants respectfully note that the Office Action repeats the previous ground of rejection, but does not answer the substance of Applicants traversal positions.

M.P.E.P. § 707.07(f) states that, where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

If the Office repeats the previous ground of rejection, then Applicants respectfully request that the next official action answer the substance of Applicants traversal positions.

Claim 15:

Regarding claim 15, the Office Action allege that the phrase "which has a first open end is each coupled" is not understood. This Amendment amends claim 15 to correct informalities, thereby overcoming this rejection.

Claim 13:

Regarding claim 13, the Office Action asserts that the term "pressurized manner" in claim 13 is a relative term which renders the claim indefinite. The Office Action asserts that the term "pressurized manner" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. The Office Action asserts that the applicant appears to be calling a plate-type valve feeding a manifold a "distributor". In the Response to Arguments, the Office Action asserts that to say a "pressurized rinsing liquid" allegedly is as indefinite as saying a "pressurized manner".

Applicants respectfully traverse this rejection.

Applicants respectfully submit that one of ordinary skill in the art certainly would know and be reasonably apprised of the scope of the invention, including the at least one distributor has at least one opening through which rinsing liquid can be supplied in a pressurized manner via an open end of the spray channel, as recited in claim 13.

As explained above, the specification very clearly describes an exemplary aspect in which the spray channels 3 each have two open ends wherein the open ends of the spray channels 3 on one side open into a first distributor 5 and the open ends of the spray channels 3 on the opposite end open into a second distributor. A pressurized rinsing liquid is supplied to the spray channels 3 (i.e., supplied in a pressurized manner). See, e.g., page 3, lines 11-28; page 4, lines 6-32; page 5, lines 10-18; page 7, lines 21-32, page 8, lines 1-4.

One of ordinary skill in the field of dishwashers certainly would understand that a pressurized rinsing liquid or supplying a rinsing liquid in a pressurized manner means that the rinsing liquid is supplied under pressure. See, e.g., page 4, lines 6-13. Indeed, one of ordinary skill in the art, and particularly in the field of dishwashers, certainly would know and understand that pressurized rinsing liquid (i.e., rinsing liquid under supplied pressure) can be supplied to the spray channels such that the rinsing liquid is

sprayed from the openings in the spray channels. See, e.g., page 3, lines 11-28; page 4, lines 6-32; page 5, lines 10-18; page 7, lines 21-32, page 8, lines 1-4.

Claim 11 sets out and circumscribes the particular subject matter with a reasonable degree of clarity and particularity such that one of ordinary skill in the art reasonably would be apprised of the scope of the invention in light of the specification, the teachings of the prior art, and the claim interpretation that would be given by one possessing the ordinary level of skill in the field of dishwashers at the time the invention was made. Thus, claim 11 is clear and definite.

Applicants respectfully note that the Office Action repeats the previous ground of rejection, but does not answer the substance of Applicants traversal positions.

M.P.E.P. § 707.07(f) states that, where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it.

If the Office repeats the previous ground of rejection, then Applicants respectfully request that the next official action answer the substance of Applicants traversal positions.

For at least these reasons, Applicants respectfully submit that one of ordinary skill in the art would be reasonably apprised of the scope of the invention, and claims 11, 13, 15, and 20 are clear and definite.

Applicants respectfully request withdrawal of this rejection.

### **The Claimed Invention**

An exemplary embodiment of the claimed invention, as recited by, for example, independent claim 11, is directed to a dishwasher comprising a spray device for spraying rinsing liquid into the interior of the rinsing container, the spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings

for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurised manner.

Many conventional dishwashers include spray devices which operate with rotating spray arms. In many cases, the corner areas of the rinsing container are not adequately sprayed with rinsing liquid by the rotating spray arms, since the rotating spray arms have a circular range of action, while the rinsing container commonly is rectangular. Moreover, items to be washed in the dishwasher can interfere with the rotating spray arms, thereby limiting operation of the dishwasher, the arrangement of items in the dishwasher, and the use of space within the dishwasher. Such spray devices commonly produce only uniform spray jets which may be insufficient to adequately clean the items to be rinsed.

In stark contrast, the present invention provides a dishwasher with a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher.

The present invention also provides a spray device in which the rinsing liquid is sprayed in the rinsing container as uniformly as possible to efficiently act upon the items to be rinsed with rinsing liquid, can produce variable spray jets in order to improve the cleaning effect of the items to be rinsed, and can provide different spray patterns. Moreover, the present invention provides a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container, as well as on one or more of the bottom, sides, and top of the rinsing container. See, e.g., page 1, lines 25-29; page 2, lines 13-32; page 3, lines 1-9; and page 5, lines 13-18.

### **The Rejections under 35 U.S.C. § 103**

In the Office Action, claims 11, 14, 18, 19, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Lutolf reference (FR2285838), the Van Dijck reference (U.S. Patent No. 2,654,894), and in view of the Steen reference (GB 949954).



Claims 12, 13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, and further in view of the Bolla reference (CH571852).

Claims 12, 13, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference (U.S. Patent No. 6,003,529), and further in view of the Deuser et al. reference (UK Patent Application Publication No. 2003840).

Claims 17, 23-29, 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, and the Hamilton reference (U.S. Patent No. 3,512,539).

Claims 38, 39 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, and in view of the Mahoney reference (U.S. Patent No. 2,239,110).

Claims 11-16 and 18-21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the Bolla reference in view of the Steen reference.

Applicants respectfully traverse these rejections.

Regarding the Response to Arguments in the present Office Action, Applicants respectfully note that the Office Action initially responds to Applicants traversal arguments with respect to the previously applied rejections under 35 U.S.C. § 102 and 103 (now withdrawn in favor of new grounds of rejection), but then states that these arguments are moot in view of the new grounds of rejection over the newly cited references. Also, the Office Action alleges that Applicants' arguments failed to comply with 37 C.F.R. § 1.111(b) for allegedly amounting to a general allegation ... without specifically pointing out how the language of the claims patentably distinguishes the claims from the references. Applicants respectfully submit that the previous Amendment filed on January 19, 2010, clearly complied with 37 C.F.R. § 1.111(b) and clearly pointed out the features of the claims that are not disclosed by the prior art of record, and the

reasons that one of ordinary skill in the art would not have combined the references in the manner alleged. See, e.g., Amendment B filed on January 19, 2010, at pages 16-22.

Referring now to the present Office Action, Applicants respectfully traverse these rejections for at least the following reasons.

To summarize, the present Office Action now relies on:

- (1) the Lutolf reference for allegedly teaching a dishwasher having spray channels allegedly having two open ends;
- (2) the Van Dijck reference for allegedly teaching a distributor (valves 48, 53) that can be opened and closed to provide surges of liquid;
- (3) the Steen reference for allegedly teaching feeding liquid from both sides of the spray channel and towards each other so that they collide at a lateral spray point;
- (4) the Bolla reference for allegedly teaching a rotating distributor 8 that supplies liquid to spray channels;
- (5) the Perry reference for teaching a plate-type distributor (valve 40 having a slide plate 50 that moves in a slot 48 to change the size of the orifice 44) that allegedly is movable in alternating directions;
- (6) the Deuser et al reference for the motivation for alternating spray patterns for washing 3-D objects such as containers;
- (7) the Hamilton reference for teaching a drive means having a drive slot 105 driven by a rotary disk (crank wheel 99) and a cam (pin 101) arranged on the rotary disk and engaging the drive slot 105 to cause movement; and
- (8) the Mahoney reference for teaching multiple spray channels in the bottom of the rinsing container (Fig. 2).

**The Rejection over the Lutolf reference, the Van Dijck reference, and in view of the Steen reference.**

Claims 11, 14, 18, 19, and 21 are rejected under 35 U.S.C. § 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, and in view of the Steen reference.

Applicants respectfully traverse this rejection.

Applicants respectfully submit that none of the applied references, either individually or in combination, discloses or suggests the features of the claimed invention including a spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurised manner, as recited by independent claim 11. Moreover, none of the applied references, either individually or in combination, discloses or suggests the features of at least dependent claims 14, 18, 19, and 21.

These features are important for providing a space-saving spray device that has no moving spray arms, thereby minimizing breakdowns associated with such moving parts, eliminating interference between the spray device and the arrangement of items in the dishwasher, and improving the use of space within the dishwasher, while also providing uniform spraying, producing variable spray jets and different spray patterns, and providing a spray device that can be configured in almost any shape to correspond to any shape of the rinsing container. See, e.g., page 1, lines 25-29; page 2, lines 13-32; page 3, lines 1-9; and page 5, lines 13-18.

The Office Action alleges that the Lutolf reference discloses distributors 80, 60, and that the pressure allegedly is variable by means of the distributors 80, 60.

Applicants respectfully submit that, contrary to the assertions in the Office Action, the Lutolf reference very clearly does not disclose these features. Indeed, the Lutolf reference very clearly fails to disclose at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, as recited in claim 11. Moreover, the Lutolf reference very clearly fails to disclose that the pressure is variable by means of the check valves 60, 80, which are compared to the claimed distributor.

Instead, as shown in the Figure, the Lutolf reference discloses check valves or one-way valves 60, 80, which simply allow flow in a single direction. Based on a

computer translation of the Lutolf reference obtained from the European Patent Office web site, the valve symbols used for 60, 80 in the Figure are consistent with the description of the Lutolf reference, which describes that the liquid flows only from pipes 55 and 77 through check valves 60, 80 respectively toward the shower pipes 3.

Contrary to the Examiner's position, the check valves 60, 80 of the Lutolf reference do not regulate the supply of rinsing liquid to the spray channel. The check valves 60, 80 permit the rinsing liquid to be supplied unimpeded or unregulated into the pipe system 3 in the supply direction. The check valves 60, 80 simply restrict flow back from, or out of, the pipe system 3 toward the pipes 55 and 77, respectively.

The Lutolf reference clearly does not disclose that the pressure at which the rinsing liquid is supplied to the spray channel is variable. Indeed, the check valves 60, 80 are not capable of varying the pressure of the rinsing liquid. Absent the addition of some other device, the check valves 60, 80 themselves cannot vary the pressure in the spray channels. Hence, the check valves 60, 80 do not disclose a distributor as claimed.

Moreover, the Lutolf reference very clearly fails to disclose the at least one spray channel [...] having two open ends via which rinsing liquid can be supplied in a pressurised manner, as recited by independent claim 11. As shown in the Figure, the Lutolf reference discloses a closed system of spray channels 3. The ends of the spray channels 3 are not open. Rather, the ends of the spray channel 3 are fixed to the check valves or one-way valves 60, 80. Hence, the Lutolf reference does not render obvious the features of claim 11.

In the alternative, the Office Action alleges that, if the Lutolf reference does not teach that the check valves (60)(80) cooperate to regulate the flow of liquid to the spray channels, then the Van Dijk reference makes up for the deficiencies by allegedly teaching a cleaning device (a foot bath) in which a conduit (20) is supplied at each end by an alleged distributor (compared to valves 48 & 53), Fig. 1. The Office Action alleges that the Van Dijk reference teaches that "the degree of turbulence of the liquid may be increased by opening both valves 48 and 53, or they (either of them) may be rhythmically opened and closed to provide surges of liquid" (Column 4, Lines 59-64).

Applicants respectfully submit that one of ordinary skill in the art would not have had an apparent reason to combine the disclosure of the Lutolf reference with the disclosure of the Van Dijck reference and/or the Steen reference to arrive at the claimed invention as a whole. Moreover, the Office Action does not establish an adequate rationale for making such a combination.

The Van Dijck reference has valves 48 and 53 that are manually controlled by an occupant or attendant to supply liquid to the foot bath. Applicants respectfully submit that one of ordinary skill in the art of dishwashers would not have been motivated by the manual opening and closing of valves of a foot bath to regulate the supply of washing liquid in a dishwasher. Indeed, one of ordinary skill in the art would recognize that, in stark contrast to a foot bath, it would be entirely impractical to manually open and close valves during a washing cycle of a dishwasher in order to regulate the supply of washing liquid to the items to be rinsed.

Hence, Applicants respectfully submit that neither the Van Dijck reference nor the Steen reference makes up for the deficiencies of the Lutolf reference, and one of ordinary skill in the art would not have had an apparent reason to combine these references in the manner alleged to arrive at the claimed invention.

For at least the foregoing reasons, none of the applied references discloses or suggests the subject matter defined by claims 11, 14, 18, 19, and 21.

Applicants respectfully request withdrawal of this rejection.

**The Rejection over the Lutolf reference, the Van Dijck reference, the Steen reference, and the Bolla reference.**

Claims 12-13 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, and further in view of the Bolla reference.

Applicants respectfully traverse this rejection.

For the reasons set forth above, Applicants respectfully submit that neither the Van Dijck reference or the Steen reference makes up for the deficiencies of the Lutolf

reference with respect to independent claim 11, and one of ordinary skill in the art would not have had an apparent reason to combine these references in the manner alleged to arrive at the claimed invention.

The Bolla reference also fails to make up for the deficiencies of these references. Regarding the Bolla reference, the Office Action makes the conclusory statement that it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the Lutolf reference with the Bolla reference to create a dishwashing machine with an automated-alternating spray pattern with fine control to achieve the expected result. Emphasis added Applicants. The Office Action fails to provide any support for these conclusions.

Applicants respectfully submit that such conclusory statements are insufficient to provide a prima facie case for obviousness because the Office Action fails to provide an adequate rationale for modifying the prior art as required by KSR International v. Teleflex Inc. 82 U.S.P.Q. 2d 1385 (2007).

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (In re Kahn, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in KSR).

The Office Action fails to articulate reasoning with any rationale underpinning to support a legal conclusion of obviousness of the claimed invention. As such, Applicants respectfully submit that the Office Action fails to present a prima facie case for obviousness. The Office Action has provided no articulated reasoning to modify the Lutolf reference to arrive at the claimed invention.

Even assuming in arguendo that one of ordinary skill in the art would have been motivated to make the alleged combination, Applicants respectfully submit that the Bolla reference does not make up for the deficiencies of the alleged combination of the applied references. Particularly, none of the applied references, including the Bolla reference, discloses or suggests wherein the at least one distributor is mounted to be movable relative to the at least one spray channel in a selected one of a to-and-fro displacement

movement in alternating directions and a movement that is not a to-and-fro displacement movement in alternating directions, as recited in claim 12. Applicants respectfully submit that obviousness of the specific features recited in the claims cannot be established merely by a general assertion that the prior art teaches varying spray patterns absent some showing that the actual claimed features are disclosed by, or rendered obvious from, the prior art.

Thus, the Office Action has not provided any articulated reasoning to modify the Lutolf reference to arrive at the claimed invention, in which the at least one distributor is mounted to be movable relative to the at least one spray channel in a selected one of a to-and-fro displacement movement in alternating directions and a movement that is not a to-and-fro displacement movement in alternating directions, as recited in claim 12.

Claim 13 recites the arrangement of the at least one opening of the at least one distributor and an open end of the spray channel, which also clearly is not disclosed or rendered obvious from the applied references or prior art in general.

Claim 16 recites drive means for driving the at least one distributor in a periodic movement. The Office Action asserts that the Bolla reference discloses a drive means for driving the distributor in periodic movement, but does not cite any support or provide an explanation for this assertion.

For at least the foregoing reasons, none of the applied references discloses or suggests the subject matter defined by claims 12, 13, and 16.

Applicants respectfully request withdrawal of this rejection.

**The Rejection over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, and the Deuser et al. reference**

Claims 12, 13, 16, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, and further in view of the Deuser et al. reference.

Applicants respectfully traverse this rejection.

For the reasons set forth above, Applicants respectfully submit that neither the Van Dijck reference or the Steen reference makes up for the deficiencies of the Lutolf reference with respect to independent claim 11, and one of ordinary skill in the art would not have had an apparent reason to combine these references in the manner alleged to arrive at the claimed invention.

The Perry reference and the Deuser et al. reference also fail to make up for the deficiencies of these references.

In the alternative to the above, the Office Action acknowledges that the Lutolf reference, as modified by the Van Dijck reference and the Steen reference does not teach the to-and-fro movement of the distributor in alternating directions and the drive means. However, the Office Action alleges that the Perry reference teaches a plate-type distributor (valve 40) which is movable related to the spray channel in a displacement movement in alternating directions, Fig. 2, that there allegedly is a drive means for driving the distributor in periodic movement, and that it allegedly would have been obvious to one of ordinary skill in the art at the time of the invention to modify Lutolf as modified by Van Dijck as modified by Steen with Perry to create a dishwashing machine with an alternating spray pattern to achieve the expected result. The Office Action fails to provide any support for these conclusions.

Applicants respectfully submit that such conclusory statements are insufficient to provide a prima facie case for obviousness because the Office Action fails to provide an adequate rationale for modifying the prior art as required by KSR International v. Teleflex Inc. 82 U.S.P.Q. 2d 1385 (2007).

"[R]ejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rationale underpinning to support the legal conclusion of obviousness." (In re Kahn, 441 F.3d 977, 988 (CA Fed. 2006) cited with approval in KSR).

The Office Action fails to articulate reasoning with any rationale underpinning to support a legal conclusion of obviousness of the claimed invention. As such, Applicants respectfully submit that the Office Action fails to present a prima facie case for



obviousness. The Office Action has provided no articulated reasoning to modify the Lutolf reference to arrive at the claimed invention.

Even assuming in arguendo that one of ordinary skill in the art would have been motivated to make the alleged combination, Applicants respectfully submit that the Perry reference does not make up for the deficiencies of the alleged combination of the applied references. Particularly, none of the applied references, including the Perry reference, discloses or suggests wherein the at least one distributor is mounted to be movable relative to the at least one spray channel in a selected one of a to-and-fro displacement movement in alternating directions and a movement that is not a to-and-fro displacement movement in alternating directions, as recited in claim 12.

Indeed, the Perry reference simply discloses a stationary valve 40 having a slide plate 50 that reciprocates in the slot 48 to control the flow rate of the water into the manifold. See, e.g., Perry at col. 2, lines 32-56. Thus, the valve 40 of the Perry reference is NOT mounted to be movable relative to the at least one spray channel in a selected one of a to-and-fro displacement movement in alternating directions and a movement that is not a to-and-fro displacement movement in alternating directions, as recited in claim 12. Rather, the valve itself is stationary and only the slide plate 50 is moveable.

Hence, the Perry reference does not make up for the deficiencies of the alleged combination of the applied references with respect to claims 12, 13, 16, and 22.

For at least the foregoing reasons, none of the applied references discloses or suggests the subject matter defined by claims 12, 13, 16, and 22.

Applicants respectfully request withdrawal of this rejection.

**The Rejection over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, and the Hamilton reference**

Claims 17, 23-29, 31-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, and the Hamilton reference.

Applicants respectfully traverse this rejection.

Applicants respectfully submit that neither the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, nor the Hamilton reference makes up for the deficiencies of the Lutolf reference. Moreover, one of ordinary skill in the art would not have had an apparent reason to combine these references in the manner alleged to arrive at the claimed invention.

Independent claim 24 recites a first plate-shaped distributor engaging a first open end of the two open ends of each of the plurality of spray channels, the first plate-shaped distributor selectively distributing the rinsing liquid to the first open end.

Similarly, claim 25 recites wherein the first plate-shaped distributor selectively varies a quantity and a pressure of the rinsing liquid being supplied to the first open end of each of the plurality of spray channels, and claim 26 recites wherein the first plate-shaped distributor is movable in a to-and-fro displacement movement in alternating directions relative to the first open end of each of the plurality of spray channels.

Claim 28 recites wherein the first plate-shaped distributor includes a plurality of openings selectively coupling with the first open end of each of the plurality of spray channels during the to-and-fro displacement movement. Claim 29 recites wherein the first plate-shaped distributor is selectively moveable in the to-and-fro displacement movement between a first position in which a first opening of the plurality of openings is completely aligned with the first open end of one of the plurality of spray channels, a second position in which the first opening of the plurality of openings is partially aligned with the first open end of the one of the plurality of spray channels, and a third position in which the first opening of the plurality of openings is completely not aligned with the first open end of the one of the plurality of spray channels.

Claims 31-36 recite similar features for the second plate-shaped distributor.

Applicants respectfully submit that none of the applied references discloses or suggests at least these features of claims 24-29 and 31-36.

Instead, at best, the Perry reference (which is relied upon for teaching a plate-type distributor) engages *only a single open end* of a spray channel, not each of a plurality of spray channels.

Hence, none of the applied references discloses or suggests the subject matter defined by claims 17, 23-29, and 31-36.

Applicants respectfully request withdrawal of this rejection.

**The Rejection over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, and the Mahoney reference**

Claims 38, 39, and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over the Lutolf reference, the Van Dijck reference, the Steen reference, the Perry reference, the Deuser et al. reference, and in view of the Mahoney reference.

Applicants respectfully traverse this rejection.

For at least the same reasons as set forth above, Applicants respectfully submit that none of the applied references discloses or suggests a first plate-shaped distributor engaging a first open end of the two open ends of each of the plurality of spray channels, the first plate-shaped distributor selectively distributing the rinsing liquid to the first open end, as recited by independent claim 24, from which claims 38, 39, and 41 depend.

Instead, at best, the Perry reference (which is relied upon for teaching a plate-type distributor) engages *only a single open end* of a spray channel, not each of a plurality of spray channels.

Hence, none of the applied references discloses or suggests the subject matter defined by claims 38, 29, and 41.

Applicants respectfully request withdrawal of this rejection.

**The Rejection over the Bolla reference and the Steen reference**

Claims 11-16 and 18-21 are rejected under 35 U.S.C. 103 (a) as being unpatentable over the Bolla reference in view of the Steen reference.

Applicants respectfully traverse this rejection.

For at least the same reasons as set forth above with respect to independent claim 11, Applicants respectfully submit that none of the applied references, either individually or in combination, discloses or suggests the features of the claimed invention including a spray device including at least one spray channel for guiding a rinsing liquid and at least one distributor for regulating the supply of rinsing liquid to the at least one spray channel, the at least one spray channel having, on a side directed towards the interior of the rinsing container, openings for the passage therethrough of the rinsing liquid and having two open ends via which rinsing liquid can be supplied in a pressurised manner, as recited by independent claim 11. Moreover, none of the applied references, either individually or in combination, discloses or suggests the features of at least dependent claims 12-16 and 18-21.

Applicants respectfully request withdrawal of this rejection.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of claims 11-42 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,

/Andre Pallapies/

Andre Pallapies

Registration No. 62,246

July 27, 2010

BSH Home Appliances Corporation  
100 Bosch Boulevard  
New Bern, NC 28562  
Phone: 252-672-7927  
Fax: 714-845-2807  
andre.pallapies@bshg.com